

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

In re:

Steven Dale Deaton,

Chapter 7
Case No. 23-02527-5-PWM

Debtor.

**RESPONSE TO OBJECTION TO
PROOF OF CLAIM NO. 8 FILED BY MXR IMAGING, INC.**

Creditor MXR Imaging, Inc. (“MXR”) responds to the *Objection to Claim* (D.E. 53), (the “Objection”), filed by the Trustee, as follows:

1. On January 5, 2024, MXR filed its Proof of Claim, No. 8 (“Claim”), relating to damages suffered by MXR caused by the Debtor.

2. On January 16, 2024, the Trustee filed the Objection, objecting to the Claim because the amount of the Claim was stated as “Unknown.”

3. On February 1, 2024, MXR filed its amended Claim, asserting the amount of the Claim is \$572,077.98. In the amended Claim, MXR provided a calculation of its damages against the Debtor relating to the action titled *MXR Imaging, Inc. v. EvoHealth LLC and Steven Deaton*, Case No. 5:23-cv440, pending in the United States District Court for the Eastern District of North Carolina (the “Pending Action”), for purposes of liquidating its Claim in response to the Objection. The filing of MXR’s Claim shall not constitute (a) a waiver or release of any rights or remedies of MXR against the Debtor or any other person or property; or (b) an election of remedies or choice of law. MXR reserves all rights of setoff, and all rights, in law or equity, to amend, modify and/or supplement the Claim, and nothing contained herein shall be construed to limit MXR’s claims against the Debtor, including, without limitation, claims for additional damages arising from the Pending Action and/or the *Complaint to Determine Nondischargeability of Indebtedness under 11*

U.S.C. § 523 filed by MXR in this Chapter 7 case.

4. The relief the Trustee seeks in the Objection should be denied as MXR has filed an amended Claim, providing a liquidated calculation of damages, which makes the Objection moot.

WHEREFORE, MXR respectfully requests this Court overrule the Objection and grant such further relief that the Court deems just and proper.

Filed: February 9, 2024

Respectfully Submitted,

MXR IMAGING, INC.

By: /s/ Benjamin S. Morrell
Benjamin S. Morrell (NC Bar No. 56676)
TAFT STETTINIUS & HOLLISTER LLP
111 East Wacker Drive, Suite 2600
Chicago, IL 60601
Telephone: (312) 527-4000
Facsimile: (312) 527-4011
bmorrell@taftlaw.com

Paul R. Harris (special appearance pending)
TAFT STETTINIUS & HOLLISTER LLP
200 Public Square, Suite 3500
Cleveland, OH 44114
Telephone: (216) 241-2838
Facsimile: (216) 241-3707
pharris@taftlaw.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I filed the foregoing document using the Court's CM/ECF system, which will effect service upon all counsel of record.

Date: February 9, 2024

By: /s/ Benjamin S. Morrell
Benjamin S. Morrell
Counsel for Plaintiff